

REFERENCE TITLE: water infrastructure finance; payment approval

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HB 2159

Introduced by
Representatives Nelson, Alvarez, Brown: Jones, Weiers JP

AN ACT

AMENDING SECTIONS 9-571 AND 48-1019, ARIZONA REVISED STATUTES; RELATING TO
WATER INFRASTRUCTURE FINANCING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 9-571, Arizona Revised Statutes, is amended to
3 read:

4 9-571. Wastewater treatment and drinking water treatment
5 facilities and nonpoint source projects: financial
6 assistance loan repayment agreements: definitions

7 A. Notwithstanding any other law, a city or town may construct,
8 acquire from a willing seller or improve a wastewater treatment facility,
9 drinking water facility or nonpoint source project with monies borrowed from
10 or financial assistance including forgivable principal provided by the water
11 infrastructure finance authority of Arizona.

12 B. To repay financial assistance from the water infrastructure finance
13 authority of Arizona a city or town may enter into a financial assistance
14 loan repayment agreement with the authority. A financial assistance loan
15 repayment agreement is payable from any revenues otherwise authorized by law
16 to be used to repay long-term obligations. If revenue from a property tax
17 assessment is the designated source of repayment under the agreement, the
18 property tax assessed and levied is a secondary property tax levy for
19 purposes of article IX, Constitution of Arizona.

20 C. **FOR ANY CITY OR TOWN WITH A POPULATION OF MORE THAN FIFTY THOUSAND**
21 **PERSONS**, the governing body of ~~a~~ THE city or town shall submit the question
22 of entering and performing a financial assistance loan repayment agreement to
23 the qualified electors voting at a regular or special ~~general~~ election in the
24 city or town. An election is not required if voter approval has previously
25 been obtained for substantially the same project with another funding source
26 or if the project is constructed with an improvement district. If a majority
27 of the qualified electors voting on the question:

28 1. Approves, the governing body may execute, deliver and perform the
29 financial assistance loan repayment agreement.

30 2. Disapproves, the governing body shall not execute a financial
31 assistance loan repayment agreement.

32 D. Payments made pursuant to a financial assistance loan repayment
33 agreement are not subject to section 42-17106.

34 E. A financial assistance loan repayment agreement entered into
35 pursuant to this section shall contain the covenants and conditions
36 pertaining to the construction, acquisition or improvement of a wastewater
37 treatment or drinking water facility or nonpoint source project and repayment
38 of the loan as the water infrastructure finance authority of Arizona deems
39 proper. Financial assistance loan repayment agreements may provide for the
40 payment of interest on the unpaid principal balance of such agreement at the
41 rates established in the agreement. The agreement may also provide for
42 payment of the city's or town's proportionate share of the expenses of
43 administering the clean water and drinking water revolving funds established
44 by sections 49-1221 and 49-1241 and may provide that the city or town pay
45 financing and loan administration fees approved by the water infrastructure

1 finance authority. These costs may be included in the levy or assessment
2 amounts pledged to repay the financial assistance. Cities and towns are
3 bound by and shall fully perform the loan repayment agreements, and the
4 agreements are uncontestable after the loan is funded by the water
5 infrastructure finance authority of Arizona. The city or town shall also
6 agree to pay the authority's costs in issuing bonds or otherwise borrowing to
7 fund a loan.

8 F. A financial assistance loan repayment agreement under this section
9 does not create a debt of the city or town, and the authority shall not
10 require that payment of a financial assistance loan repayment agreement be
11 made from other than those sources permitted in subsection B of this section
12 and as prescribed by sections 49-1225 and 49-1245.

13 G. A city or town may employ attorneys, accountants, financial
14 consultants and such other experts in their field as deemed necessary to
15 perform services with respect to the financial assistance loan repayment
16 agreement.

17 H. This section is supplemental and alternative to any other law under
18 which a city or town may borrow money or issue bonds. This section shall not
19 be construed as the exclusive authorization to enter into loan agreements
20 with the authority.

21 I. A city or town may borrow additional monies or enter into
22 additional financial assistance loan repayment agreements with the water
23 infrastructure finance authority in an amount up to the amount approved by
24 the voters pursuant to subsection C of this section less the amount that the
25 city or town is already obligated to repay to the water infrastructure
26 finance authority pursuant to a financial assistance loan repayment
27 agreement.

28 J. For THE purposes of this section:

29 1. "City" includes both cities formed pursuant to this title and
30 charter cities.

31 2. "Nonpoint source project" has the same meaning prescribed in
32 section 49-1201.

33 Sec. 2. Section 48-1019, Arizona Revised Statutes, is amended to read:

34 48-1019. Drinking water facility and wastewater facility
35 projects; financial assistance loan repayment
36 agreements; definitions

37 A. Notwithstanding any other law, a domestic water OR WASTEWATER
38 improvement district may construct, acquire, or improve a drinking water,
39 WASTEWATER OR WATER RECLAMATION facility with monies borrowed from or
40 financial assistance, including forgivable principal, provided by the water
41 infrastructure finance authority of Arizona pursuant to title 49, chapter 8.

42 B. To repay financial assistance from the authority a district may
43 enter into a financial assistance loan repayment agreement with the
44 authority. A financial assistance loan repayment agreement is payable from

1 any revenues otherwise authorized by law to be used to pay long-term
2 obligations.

3 C. FOR A DISTRICT WITH A POPULATION OF MORE THAN FIFTY THOUSAND
4 PERSONS, THE BOARD OF DIRECTORS OF THE DISTRICT SHALL SUBMIT THE QUESTION OF
5 ENTERING AND PERFORMING A FINANCIAL ASSISTANCE LOAN REPAYMENT AGREEMENT TO
6 THE QUALIFIED ELECTORS VOTING AT A REGULAR OR SPECIAL ELECTION IN THE
7 DISTRICT. AN ELECTION IS NOT REQUIRED IF VOTER APPROVAL HAS PREVIOUSLY BEEN
8 OBTAINED FOR SUBSTANTIALLY THE SAME PROJECT WITH ANOTHER FUNDING SOURCE. FOR
9 A DISTRICT WITH A POPULATION OF FIFTY THOUSAND PERSONS OR LESS, the board
10 shall obtain approval for MAY ENTER INTO the financial assistance loan
11 repayment agreement in the same manner provided by law for approving and
12 issuing other obligations payable from those revenues that are to be used to
13 pay the loan ON THE APPROVAL OF THE BOARD AND AN ELECTION IS NOT REQUIRED.

14 D. A financial assistance loan repayment agreement entered into
15 pursuant to this section shall contain the covenants and conditions
16 pertaining to the construction, acquisition or improvement of a drinking
17 water, WASTEWATER OR WATER RECLAMATION facility and repayment of the loan as
18 the authority deems proper. Financial assistance loan repayment agreements
19 may provide for the payment of interest on the unpaid principal balance of
20 the agreement at the rates established in the agreement. The agreement may
21 also provide for payment of the domestic water OR WASTEWATER improvement
22 district's proportionate share of the expenses of administering the drinking
23 water revolving fund established by section SECTIONS 49-1221 AND 49-1241 and
24 may provide that the domestic water OR WASTEWATER improvement district pay
25 financing and loan administration fees approved by the authority. These
26 costs may be included in the assessment amounts pledged to repay the
27 loan. Districts are bound by and shall fully perform the loan repayment
28 agreements, and the agreements are incontestable after the loan is funded by
29 the authority. The domestic water improvement district shall also agree to
30 pay the authority's costs in issuing bonds or otherwise borrowing to fund a
31 loan.

32 E. A financial assistance loan repayment agreement under this section
33 does not create a debt of the domestic water OR WASTEWATER improvement
34 district, and the authority shall not require that payment of a loan
35 agreement be made from other than those sources permitted in subsection B of
36 this section.

37 F. A domestic water OR WASTEWATER improvement district may employ or
38 contract for the services of attorneys, accountants, financial consultants
39 and other experts in their field as deemed necessary to perform services with
40 respect to the financial assistance loan repayment agreement.

41 G. This section is supplemental and alternative to any other law under
42 which a district may borrow money or issue bonds. This section shall be
43 construed as the exclusive authorization to enter into loan agreements with
44 the authority.

1 H. A district may borrow additional monies or enter into additional
2 financial assistance loan repayment agreements with the water infrastructure
3 finance authority in an amount up to the amount approved pursuant to
4 subsection C of this section less the amount that the district is obligated
5 to repay to the water infrastructure finance authority pursuant to a
6 financial assistance loan repayment agreement.

7 I. For the purposes of this section:

8 1. "Authority" means the water infrastructure finance authority of
9 Arizona.

10 2. "Board" means the water infrastructure finance authority of Arizona
11 board of directors.